



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**[WC Docket No. 11-42; DA 13-2016]**

Wireline Competition Bureau Seeks Comment on the Lifeline Biennial Audit Plan

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; solicitation of comments.

**SUMMARY:** In this Public Notice, the Wireline Competition Bureau (the Bureau), in conjunction with the Office of Managing Director (OMD), seeks to develop standard procedures for independent biennial audits of carriers drawing \$5 million or more annually from the low-income program, by establishing uniform audit procedures to review the internal controls and processes of the largest recipients of Lifeline support, which will increase oversight and prevent waste, fraud of abuse in the Lifeline program.

**DATES:** Comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Reply comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments are to reference **WC Docket No. 11-42 and DA 13-2016** and may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

In addition, we request that one copy of each pleading be sent to each of the following:

- Garnet Hanly, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A346, Washington, DC 20554; e-mail: [Garnet.Hanly@fcc.gov](mailto:Garnet.Hanly@fcc.gov); and
- Charles Tyler Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A452, Washington, DC 20554; e-mail: [Charles.Tyler@fcc.gov](mailto:Charles.Tyler@fcc.gov).

- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

**FOR FURTHER INFORMATION CONTACT:** Garnet Hanly, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-0995 or TTY (202) 418-0484; or Gina Spade, Office of the Managing Director, at (202) 418-7105. For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Wireline Competition Bureau's Public Notice in WC Docket No. 11-42; DA 13-2016, released September 30, 2013. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpweb.com>.

## **I. INTRODUCTION AND SUMMARY**

1. The Commission, in the Lifeline Reform Order, FCC 12-11, directed the Wireline Competition Bureau (WCB), in conjunction with the Office of Managing Director (OMD), to develop standard procedures for independent biennial audits of carriers receiving \$5 million or more annually from the low-income universal service support program. By establishing uniform audit procedures to review the internal controls and processes of Lifeline service providers, WCB is implementing another major reform established by the Commission to protect the

federal universal service fund (USF) from waste, fraud and abuse. We seek comment on the proposed Lifeline Biennial Audit Plan. The **appendices** to the Biennial Audit Plan are available for public inspection at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DA-13-2016A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-13-2016A1.pdf) and FCC Headquarters at 445 12<sup>th</sup> St., SW, Washington, DC 20554.

2. Every eligible telecommunications carrier (ETC) providing Lifeline services and that receives \$5 million or more from the USF annually must conduct a biennial audit. Each ETC that meets these requirements must hire an independent audit firm to assess the ETC's overall compliance with the Lifeline program's rules and requirements. The independent audit firms conducting the audits must be licensed certified public accounting firms and must conduct the audits consistent with Generally Accepted Government Auditing Standards (GAGAS). The audits shall be performed as agreed-upon procedures (AUP) attestations.

3. The Lifeline Biennial Audit Plan is intended to provide standard procedures for the independent auditors performing the AUP engagements, and focuses on the company's overall compliance and internal controls regarding the Commission's low-income program requirements as implemented on a nationwide basis. To maximize the administrative efficiency and benefit to the Commission of these audits, the Lifeline Biennial Audit Plan identifies the key risk areas and specific audit program requirements that the independent auditors must audit for compliance. Specifically, independent audits will review carrier processes and procedures related to: (1) carriers' obligation to offer Lifeline; (2) consumer qualification for Lifeline; (3) subscriber eligibility determination and certification; and (4) annual recertification and recordkeeping.

4. WCB and OMD will review the comments filed in response to this Public Notice and issue a final Lifeline Biennial Audit Plan. Independent auditors must plan their engagements by using the approved procedures outlined in the Lifeline Biennial Audit Plan. In addition, to

ensure compliance with the Commission's Lifeline requirements, the Universal Service Administrative Company will conduct training for independent auditors performing the AUP engagements to ensure that the audits are performed in accordance with the Lifeline Biennial Audit Plan. The independent auditors will be required to collect from the ETCs specific documents and completed questionnaires, which the independent auditors will inspect before conducting fieldwork testing and then preparing Attestation Reports.

## **II. BIENNIAL AUDIT PLAN**

### **A. Introduction**

5. The Wireline Competition Bureau (Bureau), in conjunction with the Office of Managing Director (OMD), sets forth the standard procedures for the Lifeline program biennial audits (audits).

6. As described in the Federal Communications Commission's (Commission's or FCC's) Lifeline Reform Order, the audits must be performed once every two years, unless otherwise directed by the Commission or Bureau. Every eligible telecommunications carrier (ETC or carrier) providing Lifeline services and receiving \$5 million or more from the low-income program in the aggregate annually, as determined on a holding company basis taking into account all operating companies and affiliates, is subject to the biennial audit requirement. Each ETC that meets the requisite universal service fund (USF) support threshold for Lifeline support is required to hire an independent audit firm to assess the ETC's overall compliance with the Lifeline program's rules and requirements. The independent audit firms conducting the audits must be licensed certified public accounting (CPA) firms. These audits shall be conducted consistent with Generally Accepted Government Auditing Standards (GAGAS) and follow the audit guidelines described below.

7. **Agreed-Upon Procedures Attestation Audit.** In the Lifeline Reform Order, the Commission directed the Bureau and OMD to set out standards for ETCs that are engaging auditors to perform agreed-upon procedures (AUP) attestations. To that end, all hired auditors shall follow the standard procedures contained in this Biennial Audit Plan regarding ETCs' compliance with key Lifeline program requirements. If an auditor subsequently identifies an area of ambiguity regarding Commission requirements, the issue should be reported to the Universal Service Administrative Company (USAC), and if the ambiguity with Commission requirements continues (e.g., USAC indicates the issue will require Commission guidance), the audit firm shall submit to the Commission any requests for rule interpretations necessary to complete the audit. In all instances where an auditor contacts USAC for guidance regarding Commission requirements, USAC will notify all outside auditors so that the issue in question will not be treated as a negative finding until guidance has been provided by USAC or the Bureau.

8. **Focus of Audit.** The Biennial Audit Plan is focused on an ETC's corporate-wide compliance rather than an ETC's performance on a specific day in a particular study area. In other words, the audits will focus on a company's overall compliance with the Lifeline rules and assess whether the company has internal controls necessary to comply with the Lifeline rules. For instance, when an ETC has an automated system to verify initial and ongoing eligibility, the audit should focus on whether the methods and procedures of such automated systems are appropriately structured to ensure compliance with Lifeline program rules and requirements. The Biennial Audit Plan also calls for sample testing in limited instances, to ensure that such policies, procedures and methods are being appropriately implemented as described below.

9. **Submission of Attestation Report.** Within 60 days after completion of the field work as described in the Fieldwork Testing Procedures section, but prior to finalization of the report, the third-party auditor shall submit a draft of the Attestation Report to the Commission and USAC. Comments to the draft report may be provided by the ETC to the audit firm prior to submission of the draft and final reports to the Commission and USAC. The Commission directs the audited ETCs to provide the Attestation Reports to the Commission, USAC, and relevant state and Tribal governments within 30 days of issuance of the final report, which is due no later than one year from release of the final Biennial Audit Plan, and biennially thereafter, unless otherwise directed by the Bureau. The Commission and USAC will be deemed authorized users of the reports.

#### **B. Engagement Plan**

10. **Engagement Period.** The AUP engagement shall cover 6 months of Lifeline service being offered by the ETC. The biennial audit scope may include all Low Income support disbursed from the USF by the Administrator, USAC, as detailed below.

11. **Conditions of Engagement.** Audits shall be performed in accordance with GAGAS issued by the Comptroller General of the United States (as amended) as an Agreed-Upon Procedures Attestation Engagement. The audit test period will be from November 1 through April 30 (hereinafter, the audit period). The audit firm leading the AUP engagement shall be a licensed CPA firm. All members of the team performing the engagement shall be familiar with the GAGAS standards established for an Agreed-Upon Procedures Attestation Engagement, have a sufficient general understanding of the relevant Commission's Lifeline program rules and requirements, as reflected in Compliance Requirements section and the requirements for and objectives of the AUP engagement. The team performing the engagement shall also be

independent as defined by the GAGAS. The audit firm shall disclose in its engagement letter to the carrier how the audit team will comply with the GAGAS independence requirements.

12. In addition, to the extent that the auditor determines that procedures included in this Biennial Audit Plan are unclear with respect to any Commission rules and requirements, the audit firm shall contact USAC, and submit to the Commission any requests for rule interpretations necessary to complete the audit. If the audit firm identifies or becomes aware of any situation that indicates waste, fraud, or abuse of the Lifeline program or of any other USF program while performing the audit, the audit firm has an obligation to immediately notify the Commission and USAC, as required by GAGAS paragraphs 5.58 and 5.59.

13. For all references in this document to send information to USAC, please send to Karen Majcher, USAC Vice President, High Cost & Low Income Division at [LifelineBiennial@usac.org](mailto:LifelineBiennial@usac.org). For all references in this document to send information to the Bureau and/or Commission, please send to Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-B521, Washington, DC 20554; e-mail: [Charles.Tyler@fcc.gov](mailto:Charles.Tyler@fcc.gov). Any changes to contact information will be published in a public notice.

14. The auditor's use of internal auditors/employees provided by the ETC shall be limited to the provision of general assistance and the preparation of schedules and gathering of data for use in the engagement. Under no circumstances shall the internal auditors of the ETC subject to the engagement perform any of the procedures contained in this document.

15. **Engagement Process.** The general standard procedures contained herein are intended to identify areas of audit work coverage and uniformity of audit work among each audit firm performing the engagement. The standards identified throughout this document are not legal



interpretations of any rules or requirements. To the extent that these standards or procedures conflict with any Commission rules and requirements, the audit firm should contact USAC to seek guidance as stated in the Conditions of Engagement section.

16. Upon engagement by an ETC, the audit firm shall plan the engagement by using the procedures as listed in the Audit Planning section below. The section requires the audit firm to gain an understanding of the applicable rules that will be used to test compliance, which are listed in Appendix G. USAC will conduct training for auditors performing the AUP engagements to ensure that the audits are performed in accordance with the Biennial Audit Plan. The audit firm will perform the planning procedures to help in gaining an understanding of how the ETC complies with applicable requirements. The Audit Planning section of this Biennial Audit Plan includes a list of items the ETC shall provide to the auditor to begin fieldwork testing. The auditor, however, can request additional documentation from the ETC during the course of the audit in response to information collected in Appendices B and C.

17. The specific audit objectives and procedures for compliance testing for applicable rules are provided in the Fieldwork Testing Procedures section. The audit firm is expected to complete and report on all applicable procedures except where noted. Certain procedures pertain to ETCs offering Lifeline universal service support to subscribers on Tribal lands. If the ETC does not receive any Tribal support, those procedures should be omitted.

18. Upon completion of the Fieldwork Testing Procedures, the audit firm will draft an Attestation Report in the format detailed in the Attestation Report section. The reporting section describes the process for issuing draft and final reports.

19. **Timetables.** In order to complete the engagement in a timely manner, the following time schedule for completion of certain tasks is provided:

- a) Within 60 days after completion of the fieldwork as described in the Fieldwork Testing Procedures section, but prior to finalization of the report, the independent auditor shall submit a draft of the Attestation Report to the Commission and USAC. ETCs have the option of submitting comments in response to the findings noted in the draft report.
- b) Comments to the draft Attestation Report may be provided by the Commission, USAC or the ETC to the audit firm prior to submission of the final report.
- c) The final Attestation Report shall be filed with the Commission and USAC no later than one year after release of this Biennial Audit Plan, and biennially hereafter unless otherwise specified by the Bureau.
- d) The audited entity shall provide the Attestation Report to the Commission, USAC and relevant state and Tribal governments within 30 days of issuance of the final report. The Commission and USAC shall be deemed authorized users of such reports.

20. **Attestation Report.** Consistent with the GAGAS standards for AUP engagements, the audit firm must present the results of performing the procedures in the form of findings, as appropriate and detailed within the Fieldwork Testing Procedures section, resulting from application of the procedures. The presentation of findings related to each of the specified procedures shall include sufficient detail and specificity that a reader may draw a reasonable conclusion as to whether the respective objective has or has not been met. The audit firm must avoid vague or ambiguous language in reporting the findings and shall describe in the draft and final reports all instances of noncompliance with applicable Commission rules or its related implementing orders that were noted by the audit firm in the course of the engagement, or that were disclosed by the ETC during the engagement and not covered by the performance of these procedures. Where samples are used to test data, the report shall identify the size of the sample,

and results from testing the procedures. The draft and final reports shall list the procedures with the results of the test-work performed, and any related findings, the ETC's responses to the findings, and if applicable, the audit firm's reply comments. Upon request by the Commission or USAC, the auditor shall provide its work papers. If there are no findings, the audit firm must indicate such by stating, "No Exceptions Noted." The auditor's report must also contain the following elements:

- a) A title that includes the word independent;
- b) Identification of the specified parties in the engagement;
- c) Identification of the subject matter (or the written assertion related thereto) and the character of the engagement;
- d) Identification of the FCC, USAC, and the ETC as the responsible parties;
- e) A statement that the procedures performed were those contained in this document or as directed by the Bureau, as specified in Conditions of the Engagement section;
- f) A statement that the AUP attestation engagement was conducted in accordance with attestation standards established by the Government Accountability Office;
- g) A statement that the sufficiency of the procedures is solely the responsibility of the specified parties and a disclaimer of responsibility for the sufficiency of those procedures;
- h) A list of the procedures performed, the results of the testwork performed, and any related findings, the ETC's responses to the findings, and if applicable, the audit firm's reply comments;
- i) A statement that the audit firm was not engaged to and did not conduct an examination of the subject matter, the objective of which would be the expression of an opinion, a

disclaimer of opinion on the subject matter, and a statement that if the practitioner had performed additional procedures, other matters might have come to his or her attention that would have been reported;

- j) A statement that this report becomes a matter of public record when the audit firms file the final report with the FCC; and
- k) A description of any limitations imposed on the audit firm by the carrier or any other affiliate, or other circumstances that might affect the audit firm's findings.

21. The report must **NOT** include any subscriber phone numbers, names, addresses, birthdates, social security numbers, tribal identification numbers, or any other personally identifiable information or customary proprietary network information.

22. **Audit Planning.** To initiate the audit, the audit firm shall use the following documents to plan the audit engagement: (1) The Requested Documents (Appendix A); (2) Background Questionnaire (Appendix B); and (3) Internal Control Questionnaire (Appendix C). These documents should be provided to the ETC with the audit announcement. For Appendix A, Item 1, the audit firm shall randomly select one month during the audit period to test all of the carrier's study areas (i.e., the same month must be selected for each study area).

23. Upon receipt and review of completed questionnaires and submission of the Requested Documents, the audit firm will then provide Requested Documentation Form 555 & One-Per-Household Worksheet Sample (Appendix D) and Requested Documentation: Subscriber Sample (Appendix E) to the ETC so that the ETC can provide the additional documentation necessary to complete the procedures. The Requested Documentation: USAC Program Management (Appendix F) will be sent to USAC so that USAC can provide data to the audit firm for testing. As part of engagement, the audit firm shall:

- a) Inspect the completed Background Questionnaire and note in the Attestation Report any areas that are not in compliance with the FCC Lifeline rules set forth in Appendix G.
- b) Inspect the completed Internal Control Questionnaire and note in the Attestation Report any questions that were vague, not answered, or answered other than “Yes” and any comments provided by the ETC.

24. **Representation Letters.** The audit firms shall obtain two types of representation (assertion) letters. The first type of representation letter shall address all items of an operational nature (Operational Representation Letter). The second type of representation letter shall address applicable Commission rules and requirements as detailed below (Compliance Representation Letter). The following paragraphs detail the contents of each type of representation letter.

25. The Operational Representation Letter shall be signed by the Chief Operating Officer, or the equivalent, of the audited entity and shall include the following:

- a) The audited entity has made available all records in its control, as a participant in the Lifeline program under the federal USF, necessary to successfully execute the Lifeline agreed-upon procedures attestation engagement.
- b) Carrier is responsible for complying, and has complied, with requirements relating to 47 CFR Part 54 Subparts B and E of the Commission rules governing the administration of the USF for the Lifeline Program.
- c) Pursuant to Commission’s Lifeline rules, the audited entity has only received reimbursement for each qualifying low-income consumer served, and that the reimbursement amount equals the federal support amount, including amounts described

in 47 CFR 54.403(a) and (c).

- d) The audited entity has no knowledge of any fraud or suspected fraud by management/employees of the ETC related to the administration of the Lifeline Program.
- e) The audited entity has responded fully to all inquiries submitted by the auditor in the agreed-upon procedures attestation engagement.
- f) The audited entity has reviewed the draft Attestation Report findings and management letter comments, where applicable, and concur that all non-compliance identified therein are included in the reports or management letters.
- g) The audited entity has no knowledge of any events subsequent to the period of the subject matter being reported on that would have a material effect on the subject matter, or more specifically, the report opinions provided by the auditor, except as has been disclosed.
- h) There have been no notices of action from state or federal regulatory agencies, including the Federal Communications Commission or state public utilities commission that would affect the subject matter, or, more specifically, the report observations provided by the audit firm.

26. The Compliance Representation Letter shall be signed by the Chief Operating Officer, or the equivalent, of the audited entity and shall include the following:

- Report of Management on Compliance with Applicable Requirements of 47 CFR Part 54 of the Federal Communications Commission's Rules, Regulations and Related Orders.
- Management of (name of telecommunications carrier) is responsible for ensuring that the carrier is in compliance with applicable requirements of the Federal Communications Commission (FCC) rules at 47 CFR 54.101, 54.201, and 54.400 - 54.417 as well as related FCC Orders.

- Management has performed an evaluation of the carrier's compliance with the applicable requirements of FCC rules at 47 CFR 54.101, 54.201, and 54.400 - 54.417, and related FCC Orders with respect to providing discounts to eligible low income consumers and seeking reimbursement from the Universal Service Fund (USF) during the period November 1, 20XX through April 30, 20XX (audit period).

**The Carrier makes the following assertions with respect to the provision of Lifeline service during the audit period:**

- A) Carrier Obligation to Offer Lifeline – the (name of Telecommunications Carrier) asserts that it:
  - (1) Is an eligible telecommunications carrier (ETC) (47 CFR 54.201(a); Definition of eligible telecommunications carriers, generally, which discusses carrier eligibility) and provides the services required for eligibility (§ 54.101(a): Services designated for support, and (b) of the Commission's rule: Requirement to offer all designated services; which describe the services that an eligible carrier must offer to receive federal universal service support)
  - (2) Makes available Lifeline service, as defined in § 54.401 of the Commission's rules, to qualifying low-income consumers (47 CFR 54.405(a): Carrier obligation to offer lifeline, which discusses carriers' obligations to offer, publicize, notify and allow lifeline services)
  - (3) Publicizes the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. (47 CFR 54.405(b): Carrier obligation to offer lifeline.) (47 CFR 54.201(d)(2): Definition of eligible telecommunications carriers, generally, which requires the advertising of the availability of services)
  - (4) Indicates on all materials describing the service, using easily understood language, that it

is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term “materials describing the service” includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms. (47 CFR 54.405 (c): Carrier obligation to offer lifeline.)

(5) Discloses the name of the eligible telecommunications carrier on all materials describing the service. (47 CFR 54.405(d): Carrier obligation to offer lifeline.)

B) Consumer Qualification for Lifeline – the (name of Telecommunications Carrier) asserts that it: Maintains policies and procedures that are effectively implemented to review and certify consumer eligibility for Lifeline, and Toll Limitation services. (47 CFR 54.409: Consumer Qualification for Lifeline, which discusses the certification and verification requirements) This includes that an officer of the carrier:

- Asserts that the carrier has implemented policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services. (47 CFR 54.410: Subscriber eligibility determination and certification, which also requires compliance with state certification procedures to document consumer eligibility)

C) Submission of Lifeline Worksheet (Form FCC 497) – the (name of Telecommunications Carrier) asserts that it: Submitted properly completed FCC Forms 497 for each month, representing discounts actually provided to subscribers, for the audit period, and has the required supporting documentation for the number of subscribers, rates and other information provided on the Form (47 CFR 54.407: Reimbursement for offering Lifeline, which discusses carrier reimbursement for providing Low Income Program



support and requires the carrier to keep accurate records in the form directed by USAC and provide the records to USAC)

D) General Recordkeeping and Annual Certification Requirements – the (name of Telecommunications Carrier) asserts that:

(1) It maintains records to document compliance with all Commission and state requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request.

Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in § 54.410(d) and (f) of the Commission's rules for as long as the subscriber receives Lifeline service from that eligible telecommunications carrier. (47 CFR 54.417(a))

(2) If it provides Lifeline discounted wholesale services to a reseller, it must obtain a certification from that reseller that it is complying with all Commission requirements governing the Lifeline and Tribal Link Up program. (47 CFR 54.417(b))

(3) Complied with the annual certifications by eligible telecommunication carriers. (47 CFR 54.416, 54.522)

- Dated [Date], 20XX
- Name: Official or Owner of Carrier and, if applicable CFO or Senior Official responsible for Accounting or USF Compliance

27. **Sampling.** Certain procedures may require testing on a sample basis. To test compliance with certain key risk areas, the auditor will randomly select one month during the audit period and request the ETC to submit a subscriber list which will include all Lifeline subscribers for whom it requested reimbursement using the FCC Form 497s for that selected

month (collectively, National Subscriber List). The auditor will randomly select subscribers from the National Subscriber List for the applicable procedures as described in the Fieldwork Testing Procedures section. To test compliance with other key risk areas, the auditor will randomly select a certain number of subscribers and request additional documentation (certification forms, re-certification forms, re-certification notice, termination notice, etc.) as described in the Fieldwork Testing Procedures section.

### **C. Fieldwork Testing Procedures**

#### **OBJECTIVE I:**

28. **Carrier Obligation to Offer Lifeline.** To determine if the ETC has procedures in place to make Lifeline services available to qualifying low-income consumers with mandated disclosures regarding requirements to participate in the Lifeline program, and procedures for de-enrolling subscribers when they are no longer eligible to receive Lifeline services.

29. **Standards.** The Commission has adopted rules, set forth in 47 CFR 54.405, requiring carriers to make available Lifeline services to qualifying low-income consumers using marketing materials that describe the service. For purposes of this rule, the term “marketing materials” includes materials in all media, including but not limited to print, audio, video, and Internet (including email, web, and social networking media) that describe the Lifeline-supported service offering, including application and certification forms. The Commission has also established requirements for de-enrollment where a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer under § 54.405 of the Commission’s rules.

#### **30. Procedures:**

- 1) Inquire of management and obtain carrier policies and procedures in response to Item 4 of Appendix A (Requested Documents) for offering Lifeline service to qualifying

low-income consumers. Examine the carrier policies and procedures, and compare management responses and carrier policies and procedure with the Commission's Lifeline rules set forth in Appendix G. Note any discrepancy between the policies and procedures and the Commission's rules.

- 2) Inspect 10 examples of carrier marketing materials describing the Lifeline service (i.e., print, audio, video and web materials used to describe or enroll in the Lifeline service offering, including standard scripts used when enrolling new subscribers, application and certification forms), as provided in response to Items 4, 6 and 7 of Appendix A and note if the materials do not include the following:
  - a. The service is a Lifeline service, which is a government assistance program;
  - b. The service is non-transferable;
  - c. Only eligible subscribers may enroll;
  - d. Only one Lifeline discount is allowed per household; and
  - e. The ETC's name or any brand names used to market the service.

If all of the examples do not include this required information, identify and note the specific element(s) that are missing from each example.

- 3) Monitor 10 random incoming calls to telephone number(s) used as customer care for the Lifeline program, as provided in response to Item 8 of Appendix A. Note whether:
  - (1) the telephone number(s) involve the use of interactive voice response (IVR) system;
  - (2) a live customer care operator is available; and
  - (3) the time spent using the customer care telephone service.Also note whether the customer care telephone number(s) can be used by subscribers to notify the ETC of the subscriber's intent to cancel service or give notification that the subscriber is no longer eligible to receive

service.

- 4) Inspect applicable policies and procedures regarding de-enrollment from the program, including when the ETC will de-enroll subscribers based on lack of eligibility, duplicative support, non-usage, and failure to recertify, as further described below.
  - a. Inspect the ETC's policy and procedures for de-enrollment where the ETC has information indicating that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer under 47 CFR 54.409, as provided in response to Item 4 of Appendix A. Note whether the policy and procedures detail the process for communications between the subscriber and ETC regarding de-enrollment, including, but not limited to: (1) notifying subscribers of impending termination of service; (2) allowing subscriber to demonstrate continued eligibility; and (3) termination of service for failure to demonstrate eligibility. Identify any areas that are not in compliance with §54.405(e)(1) of the Commission's rules.
  - b. Inspect the carrier's policy and procedures for de-enrolling subscribers that are receiving Lifeline service from another ETC or where more than one member of a subscriber's household is receiving Lifeline service (duplicative support). Note if the policy and procedures state that the ETC will de-enroll subscribers within five business days of receiving notification from USAC program management that a subscriber or a subscriber's household is receiving duplicative Lifeline support, as required by § 54.405(e)(2) of the Commission's rules.
  - c. Inspect the carrier's policy and procedures for de-enrolling subscribers for non-usage (i.e., where a Lifeline subscriber fails to use Lifeline service for 60 consecutive days). Using the list provided in response to Item 10 in Appendix A

perform the following:

- (i) For accounts listed as de-enrolled or scheduled for de-enrollment, select a sample of at least 10 accounts and request copies of the non-usage termination notifications sent to the subscribers.
  - (ii) Examine the non-usage termination notifications to verify if the termination notifications explain that the subscriber has 30 days following the date of the impending termination notification to use the Lifeline service. Note if any of the non-usage termination notifications do not include this information, as required by § 54.405(e)(3) of the Commission's rules.
  - (iii) Attach a sample non-usage termination notification(s).
- d. Review the carrier's policy and procedures for de-enrolling a Lifeline subscriber that does not respond to the carrier's attempts to obtain re-certification, as part of the annual eligibility re-certification process. For any subscribers identified in Item 9.i, j and m of Appendix A, select a random sample of at least 30 and request copies of the notice of impending de-enrollment letters and all other communications sent to the subscribers involving recertification and perform the following:
- (i) Inspect the sampled notice of impending de-enrollment letters and any other communications sent to the subscriber regarding re-certification to verify if the communications explain that the subscriber has 30 days following the date of the notice of impending de-enrollment letter to demonstrate continued eligibility or the carrier will terminate the subscriber's Lifeline service. Note if any of the impending de-enrollment letters do not include this information.

- (ii) Review the de-enrollment letters, and other forms of communications, and the carrier's responses to the background questionnaire and verify through observation that the de-enrollment letters, if that form of communication was used, were sent by a method separate from the subscriber's bill (if a customer receives a bill from the carrier).
- (iii) Attach a random sample of at least 5 examples of the impending de-enrollment letters to this procedure, and attach other form of communications provided to the carrier.

## **OBJECTIVE II:**

31. **Consumer Qualification for Lifeline.** To determine if the ETC has procedures in place to limit Lifeline service to qualifying low-income consumers and ensure that Lifeline service is limited to a single subscription per household.

32. **Standards.** The Commission has adopted rules, set forth in 47 CFR 54.409, establishing eligibility criteria for consumers to be qualified to receive Lifeline services and limiting Lifeline support to a single subscription per household. The Commission has also adopted rules, set forth in 47 CFR 54.407 establishing that universal service support for providing Lifeline shall be provided directly to an eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves.

### **33. Procedures:**

- 1) Inquire of management and obtain carrier policies and procedures for limiting Lifeline support to a single subscription per household as provided by the carrier in response to Item 4 of Appendix A. Examine the policies and procedures. Compare management responses and carrier policies and procedures with the Commission's Lifeline rules set

forth in § 54.409(c) of the Commission's rules (Appendix G). Note any discrepancies between the policies and procedures and the Commission's rule.

- 2) Obtain the National Subscriber List in response to Item 1 of Appendix A. Obtain the carrier's Form 497(s) for each study area for the selected month as provided by USAC in response to Item 1 of Appendix F. Examine the number of subscribers claimed on the Form(s) 497. Compare the number of subscribers reported on the Form 497(s) to the number of subscribers contained on the National Subscriber List for each study area. Note any discrepancies in the number of subscribers.
- 3) Using computer-assisted audit techniques, examine the National Subscriber List and note if there are any:
  - a. Duplicate phone numbers;
  - b. Duplicate addresses, same subscribers (same name, birth date, and last four of Social Security Number);
  - c. Duplicate addresses, different subscribers;
  - d. P.O. Boxes;
  - e. Blanks or missing data; and
  - f. Unusual notations (e.g., N/A, symbols, etc.).

Note: In the final report, only state the number of instances noted for each test item above. For example, in the final report, note the number of duplicate phone numbers, but do NOT include the actual phone number.

- 4) From the testwork completed in paragraph 33. 3) c. above, examine the list of duplicate addresses for different subscribers. Randomly select up to 30 of the duplicate addresses and perform the following: Request copies from the ETC of the

one-per-household certification form for each of the selected duplicate addresses.

Verify at least one subscriber from the duplicate addresses certified to only receiving one Lifeline-supported service in his/her household using the one-per household worksheet. Note the number of missing or incomplete certifications.

### **OBJECTIVE III:**

34. **Subscriber Eligibility Determination and Certification.** To determine if the ETC implemented policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.

35. **Standards.** The Commission has adopted rules, set forth in 47 CFR 54.409 and 54.410, that require ETCs to implement policies and procedures for ensuring that their subscribers are eligible to receive Lifeline services.

36. The Commission's rules, set forth in 47 CFR 54.409, include requirements for determining whether a consumer is qualified to receive Lifeline service. Pursuant to these rules: (1) the consumer's household income as defined in § 54.400(f) of the Commission's rules must be at or below 135% of the Federal Poverty Guidelines for a household of that size; (2) the consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the qualifying federal assistance programs; or (3) the consumer must meet additional eligibility criteria established by a state for its residents, provided that such-state specific criteria are based solely on income or other factors directly related to income.

#### **37. Procedures:**

- 1) Inquire of management and obtain carrier policies and procedures for ensuring that its Lifeline subscribers are eligible to receive Lifeline services as provided by the carrier in response to Item 4 of Appendix A. Examine the policies and



procedures. Compare management responses and carrier policies and procedures with the Commission's Lifeline rules set forth in § 54.410 of the Commission's rules (Appendix G). Note any discrepancies between the policies and procedures and the Commission's rule.

- a. Inspect the ETC's policies and look for evidence as to whether it includes a policy that the ETC does not retain copies of subscribers' proof of income- or program-based eligibility. Note in the Attestation Report if such a policy is not included.
  - b. Inspect the ETC's policies and look for evidence as to whether it includes a policy or procedure that the ETC must fully verify the eligibility of each low-income consumer prior to providing Lifeline service to that consumer, and that the ETC or its agents may not provide the consumer with an activated device intended to enable access to Lifeline service until that consumer's eligibility is fully verified and all other necessary enrollment steps have been completed.
- 2) Examine the ETC's policies and procedures for training employees and agents for ensuring that the ETC's Lifeline subscribers are eligible to receive Lifeline services, including any policies regarding how the company ensures employees and agents have completed the training. In the report, summarize the training requirements and ETC policies for ensuring employees and agents are trained on the rules for ensuring subscribers are eligible to receive Lifeline services and have completed all forms necessary to receive service. Include information provided regarding the timing, frequency and evidence of completion of the initial and any

subsequent Lifeline subscriber eligibility and certification trainings required of the ETC's employees.

- 3) Randomly select at least 100 subscribers from the National Subscriber List and for the first 50 of the sampled subscribers, the auditor will perform the test described below, for each of the subscriber's certification and recertification forms. After performing the tests described below for the first 50 sampled subscriber, if the error rate is higher than 5 percent, the auditor should apply the same procedure to the remaining 50 subscribers in the sample and record the results.
  - a. Examine the subscriber certification forms, if any, to verify the forms contain the following information:
    - (i) Lifeline is a federal benefit and that willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program;
    - (ii) Only one Lifeline service is available per household;
    - (iii) A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
    - (iv) A household is not permitted to receive Lifeline benefits from multiple providers;
    - (v) Violation of the one-per-household limitation constitutes a violation of the Commission's rules and will result in the subscriber's de-enrollment from the program;

- (vi) Lifeline is a non-transferable benefit and the subscriber may not transfer his or her benefit to any other person;
- (vii) Require each prospective subscriber to provide the following information:
  - (1) The subscriber's full name;
  - (2) The subscriber's full residential address;
  - (3) Whether the subscriber's residential address is permanent or temporary;
  - (4) The subscriber's billing address, if different from the subscriber's residential address;
  - (5) The subscriber's date of birth;
  - (6) The last four digits of the subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;
  - (7) If the subscriber is seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409 of the Commission's rules, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and
  - (8) If the subscriber is seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409 of the Commission's rules, the number of individuals in his or her household.
- (viii) Require each prospective subscriber to certify, under penalty of perjury, that:
  - (1) The subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline, provided in § 54.409 of the

Commission's rules;

- (2) The subscriber will notify the ETC within 30 days if for any reason he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the subscriber no longer meets the income-based or program-based criteria for receiving Lifeline service, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit.
- (3) If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, he or she lives on Tribal lands, as defined in § 54.400(e) of the Commission's rules;
- (4) If the subscriber moves to a new address, he or she will provide that new address to the ETC within 30 days;
- (5) The subscriber's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;
- (6) The information contained in the subscriber's certification form is true and correct to the best of his or her knowledge,
- (7) The subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and
- (8) The subscriber acknowledges that the subscriber may be required to re-certify his or her continued eligibility for Lifeline at any time, and the subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline

benefits pursuant to § 54.405(e)(4) of the Commission's rules.

- (ix) Compare the ETC's subscriber eligibility criteria on the certification forms to the federal eligibility criteria listed in per 47 CFR 54.409. Note any discrepancies. **Note:** The ETC may list the eligibility criteria in its entirety or may allow the subscriber to note only his/her qualifying criterion on the form.
  - (x) Verify the subscriber completed all the required elements as identified in Objective III – 3 a. above, including signature and initialing/checkbox requirements contained in the certification form.
  - (xi) Examine the subscriber's initial certification form to verify the initial certification form is dated prior to or on the same day as the Lifeline start date per the National Subscriber List.
  - (xii) If applicable, verify subscribers who received Tribal Lifeline support certified to residing on Tribal lands.
- b. Review the list of the data source or documentation the ETC reviewed to confirm the subscriber's eligibility. Verify the recorded data sources are eligible data sources per 47 CFR 54.410, such as (1) income or program eligibility databases, (2) income or program eligibility documentation, or (3) confirmation from a state administrator.

#### **OBJECTIVE IV:**

##### **38. Annual Certifications and Recordkeeping by Eligible Telecommunications**

**Carriers.** To determine if ETCs have made and submitted to the Universal Service

Administrative Company the required annual certifications, under penalty of perjury, relating to

the Lifeline program by an officer of the company and maintained recordkeeping requirements.

39. **Standards.** The Commission's rules, set forth in 47 CFR 54.416, 54.422, require that an officer of the company must certify that the ETC has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services and ETC is in compliance with all federal Lifeline certification procedures. ETCs must make this certification annually to USAC as part of the carrier's submission of recertification data pursuant to the Commission's rules.

40. The Commission also requires under its rules, set forth in 47 CFR 54.417, that it must maintain records to document compliance with all Commission requirements and state requirements governing the Lifeline program for the three full preceding calendar years and must maintain the documentation required in § 54.410(d) and (f) of the Commission's rules for as long as the subscriber receives Lifeline service from that eligible telecommunications carrier, and provide the documentation to the Commission or USAC upon request.

41. **Procedures:**

- 1) Inquire of management and obtain carrier policies and procedures for ensuring that the carrier has made and submitted the annual certifications required under §§ 54.416 and 54.422 of the Commission's rules, as provided in Item 12 of Appendix A. Examine the policies and procedures. Compare management responses and carrier policies and procedures with the Commission's Lifeline rules set forth in §§ 54.416 and 54.522 of the Commission's rules (Appendix G). Note any discrepancies between the policies and procedures and the Commission's rules.
- 2) Examine the ETC's Form 555 that was filed during the audit period. Verify the carrier made all of the following certifications. An officer of each ETC must certify that s/he

understands the Commission's Lifeline rules and requirements and that the carrier:

- a. Has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services;
  - b. Is in compliance with all federal Lifeline certification procedures; and
  - c. In instances where an ETC confirms consumer eligibility by relying on income or eligibility databases, as defined in 47 CFR 54.410(b)(1)(i)(A) or (c)(1)(i)(A), the representative must attest annually as to what specific data sources the ETC used to confirm eligibility.
- 3) Examine the ETC's organizational chart provided in response to Item 5 of Appendix A. Verify that the certifying officer on the Form 555 is an officer per the organizational chart or other publicly available documents.
  - 4) Verify that the subscriber count per the Form 555 agrees with the total subscriber count per the applicable Form 497. Note: The Form 555 is completed by the carrier at the state level (not the study area level). If the carrier has two study areas in one state, the carrier must combine the results of both study areas and complete one Form 555 for that state.
  - 5) Review the ETC's detailed recertification results of the individual subscribers reported on the Form 555, as provided in Item 9 of Appendix A. Verify that the data reported on the Form 555 agrees with the detailed recertification results.
  - 6) Review the ETC's detailed non-usage results of the individual subscribers reported on the Form 555, as provided in Item 10 of Appendix A. Verify that the data reported on the Form 555 agrees with the detailed non-usage results.
  - 7) Review the carrier's annual ETC certification, as provided in Item 13 of Appendix A.

Verify that the ETC reported all the information and made all the certifications required by 47 CFR 54.422(a)(b).

- 8) Review any supporting schedules related to the carrier's annual ETC certification, as provided in Item 13 of Appendix A. Verify that the data reported on the annual ETC certification agrees with the supporting schedules.
- 9) Inquire of management and obtain carrier policies and procedures for maintaining records that document compliance with the Lifeline program rules, as provided by the carrier in response to Item 4 of Appendix A. Examine the policies and procedures. Compare the management responses and carrier policies with recordkeeping rules set forth in 47 CFR 54.417. Note any discrepancies between the policies and procedures and the Commission's rule.

### **III. PROCEDURAL MATTERS**

#### **A. Paperwork Reduction Act Analysis**

42. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

#### **B. Initial Regulatory Flexibility Analysis**

43. As Required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Wireline Competition Bureau (WCB), in conjunction with the Office of Managing Director (OMD), has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the procedures proposed in this Public Notice. Written comments are requested on this IRFA. Comments must



be identified as responses to the IRFA and must be filed by the deadlines for comments on the Public Notice. The Commission will send a copy of the Public Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Public Notice and IRFA (or summaries thereof) will be published in the Federal Register.

**a. Need for, and Objectives of, the Lifeline Biennial Audit Plan:**

44. The Public Notice seeks comment on the standard procedures for independent biennial audits of carriers drawing \$5 million or more annually from the low-income universal service support program. We seek comment on any costs and burdens on small entities associated with the proposed Biennial Audit Plan., including data quantifying the extent of those costs or burdens.

**b. Legal Basis**

45. The Public Notice, including publication of proposed procedures, is authorized under sections 1,2, 4(i)-(j), 201(b), 254, 257, 303(r), and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended.

**c. Description and Estimate of the Number of Small Entities to which the Proposed Biennial Audit Plan Will Apply:**

46. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed Biennial Audit Plan. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by

the Small Business Administration (SBA). Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA. A “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were “small governmental jurisdictions.” Thus, we estimate that most governmental jurisdictions are small.

## **1. Wireline Providers**

**47. Incumbent Local Exchange Carriers (Incumbent LECs).** Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. The Commission estimates that most providers of local exchange service are small entities, but a small percentage are impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company

basis taking into account all operating companies and affiliates.

**48. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.**

Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities, but a small percentage are impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking

into account all operating companies and affiliates.

49. **Interexchange Carriers.** Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that will not be affected by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking into account all operating companies and affiliates.

50. **Operator Service Providers (OSPs).** Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this

category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities, but will not be impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking into account all operating companies and affiliates.

51. **Local Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities, but will not be impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking into account all operating companies and affiliates.

52. **Toll Resellers.** The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities, but will not be impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking into account all operating companies and affiliates.

53. **Pre-paid Calling Card Providers.** Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards. Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees.

Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities, but will not be impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking into account all operating companies and affiliates.

## **2. Wireless Carriers and Service Providers**

54. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

55. **Wireless Telecommunications Carriers (except Satellite).** Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of “Paging” and “Cellular and Other Wireless Telecommunications.” Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of

these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

**56. Wireless Communications Services.** This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” as an entity with average gross revenues of \$15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

**57. Satellite Telecommunications Providers.** Two economic census categories address the satellite industry. The first category has a small business size standard of \$15 million or less in average annual receipts, under SBA rules. The second has a size standard of \$25 million or less in annual receipts.

**58.** The category of Satellite Telecommunications “comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.” Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under \$10 million, and 18 firms had receipts of \$10



million to \$24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities, but are unlikely impacted by the Biennial Audit Plan because it applies only to those entities that receive \$5 million or more from the low-income program, on an annual basis, as determined on a holding company basis taking into account all operating companies and affiliates.

59. The second category, i.e., “All Other Telecommunications” comprises “establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.” For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,347 firms had annual receipts of under \$25 million and 12 firms had annual receipts of \$25 million to \$49, 999,999. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

60. **Common Carrier Paging.** The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede

data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. The 2007 census also contains data for the specific category of “Paging” “that is classified under the seven-number North American Industry Classification System (NAICS) code 5172101. According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for “small businesses” and “very small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A “small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a “very small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

**61. Wireless Telephony.** Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except

Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the 2008 Trends Report, 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

### **3. Internet Service Providers**

62. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (e.g., cable and DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of \$25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of \$21 million or less in annual receipts, which was revised in late 2005 to \$23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under \$10 million, and an additional 47 firms had receipts of between \$10 million and \$24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

**d. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

63. As part of the effort to reduce waste, fraud, and abuse in the low-income program, the Commission directed the Bureau, in conjunction with OMD, to finalize standard procedures for independent audits of carriers drawing \$5 million or more annually from the program. The Commission limited this requirement to the largest recipients in the program, who pose the biggest risk to the program if they lack effective internal controls to ensure compliance with the Commission's rules. For the small percentage of, if any, small entities who meet this \$5 million revenue threshold, we seek comment on how to minimize the burdens of such a requirement on small entities. Accordingly, we seek comment on the potential economic impact of these requirements.

**e. Federal Rules that May Duplicate or Conflict with Proposed Rules**

64. None.

**C. Filing Requirements**

65. **Filing Requirements.** Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments are to reference **WC Docket No. 11-42 and DA 13-2016** and may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

- Paper Filers: Parties who choose to file by paper must file an original and one of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12<sup>th</sup> Street, SW, Washington DC 20554.

In addition, we request that one copy of each pleading be sent to each of the following:

- Garnet Hanly, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A346, Washington, DC 20554; e-mail: Garnet.Hanly@fcc.gov; and
- Charles Tyler Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A452, Washington, DC 20554; e-mail: Charles.Tyler@fcc.gov.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

FEDERAL COMMUNICATIONS COMMISSION

Kimberly Scardino,  
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Wireline Competition Bureau.

[FR Doc. 2013-27184 Filed 11/12/2013 at 8:45 am; Publication Date: 11/13/2013]